

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**February 12-16, 2001**

| Date Issued | Type of Case(1) | Proceeding or Appn. No. | Party or Parties             | TTAB Panel(2)            | Issue   | TTAB Decision  | Opposer's or Petitioner's Mark and Goods or Services   | Applicant's or Respondent's Mark and Goods or Services  | Mark and Goods Cited by Examining Attorney | Examining Attorney | Citable as Precedent of TTAB |
|-------------|-----------------|-------------------------|------------------------------|--------------------------|---|--|--|---|--|--------------------|------------------------------|
| 2-12        | EX              | 75/459,912              | Style-click.com, Inc.        | Cissel Seeherman Quinn*  | 2(e)(1)   | Refusal Affirmed   |  | "VIRTUAL FASHION"<br>[computer software for consumer use in shopping via a global computer network and computer software for providing fashion, beauty and shopping advice] |  | Thompson           | Yes                          |
| 2-12        | EX              | 75/652,852              | Marc S. Cooperman            | Quinn Hairston Wendel*   | 2(e)(1)   | Refusal Affirmed   |  | "EMAILER ID" [e-mail processing and presentation software used in identifying and authenticating the sender of an e-mail]   |  | D. Lee             | No                           |
| 2-12        | EX              | 74/718,903              | Oris LTDA                    | Hohein* Hairston Chapman | genericness; whether applicant's mark is distinctive and registrable under Section 2(f) | Refusal Affirmed (but only on the ground of lack of 2(f) distinctive-ness) |  | "EXTRA STRONG" [baler twine]  |  | Rossman            | No                           |
| 2-12        | OPP             | 112,687                 | Steve Lance v. Richard Brown | Simms Cissel* Rogers     | 2(d)  | Opposition Sustained   | "TALKING PICTURES"<br>[entertainment services, namely, a weekly radio call-in show devoted to the movies and cinema] | "TALKING PICTURES"<br>[entertainment and educational services, namely, seminars, interviews and screenings related to the film industry]                                    |  |                    | No                           |
| 2-13        | EX              | 75/476,026              | Diamond Brands Inc.          | Simms Wendel* Bottorff   | 2(d)  | Refusal Affirmed   |  | "ROSE BUD" [safety matches]   | "ROSE BUD"<br>[chewing tobacco]            | Charlon            | No                           |

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| 2-13        | EX              | 75/218,102              | Networks Associates Technology, Inc. | Cissel*<br>Hairston<br>Rogers | whether applicant's mark is capable of registration on the Supplemental Register [genericness]   | Refusal Reversed                   |  | "REMOTE DESKTOP"<br>[computer program which provides remote viewing, remote control, communications and software agent distribution within personal computer systems and across computer network systems] |   | Micheli            | No                           |
| 2-14        | EX              | 75/064,130              | Upper Deck Co.                       | Simms<br>Seeherman<br>Wendel* | whether applicant is, in one application, seeking to register more than one mark; whether the matter asserted for registration functions as a mark | Refusal Affirmed (on both grounds) |  | a hologram device applied to trading cards (with no claim as to any particular size, shape, content, nor positioning of such hologram device) [trading cards]   |   | Hershko-witz       | Yes                          |
| 2-14        | EX              | 75/048,668              | Excelnet (Guernsey) Ltd.             | Quinn<br>Walters<br>Drost*    | 2(d)   | Refusal Affirmed                   |  | "EXCELNET" (and design) [insurance brokerage services excluding mortgage brokerage services provided exclusively to mortgage lending institutions]  | "EXCEL" [insurance administration, consultation and mortgage underwriting services provided exclusively to mortgage lending institutions] | Regan              | No                           |

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| 2-14        | EX              | 75/460,669              | Victory Foodservice Distributors Corp. | Seeherman*<br>Bucher<br>Holtzman | 2(d)    | Refusal Affirmed     |   | "VICTORY FOODSERVICE" (plus other wording and design) [wholesale food distributorship services]   | "VICTORY MARKETS," "VICTORY MARKETS" (and design incorporating the letters "VM"), and "VICTORY MARKETS" (and design incorporating the letter "V") [ <i>all three marks for</i> wholesale and retail supermarket services] | Hughitt            | No                           |
| 2-14        | EX              | 75/568,065              | Parker Hannifin Customer Support Inc.  | Seeherman<br>Hairston<br>Drost*  | 2(e)(1) | Refusal Affirmed     |   | "MACHINESHOP" [computer software for use in managing machine control software applications in the field of manufacturing]   |   | Cross              | No                           |
| 2-14        | OPP             | 100,070                 | Kellogg Co. v. Don R. Mueller          | Cissel<br>Quinn<br>Holtzman*     | 2(d)    | Opposition Sustained | "NUTRI-GRAIN," "NUTRI-GRAIN ALMOND," and "NUTRI-GRAIN WHEAT" [all three marks for cereal-derived food product to be used as a breakfast food, snack food or ingredient for making food] and "NUTRI-GRAIN" [waffles] | "NUTRI BRAIN" (and design) [cookies that, in addition to their nutritional value, introduce a variety of physical formulas, with a particular formula on each cookie] |   |                    | No                           |

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| 2-15        | EX              | 75/065,953              | DTC Eye Surgery Center, Inc.                            | Seeherman Quinn Walters* | Section 6 disclaimer requirement (of the words LASER INSTITUTE OF THE ROCKIES) | Refusal Affirmed     |   | "LASER INSTITUTE OF THE ROCKIES" (and design) [medical services in the nature of corrective surgery for the eyes]                                      |   | Aurini             | No                           |
| 2-15        | EX              | 74/588,425              | Proven Winners North America, LLC                       | Simms Seeherman* Quinn   | 2(d)   | Refusal Affirmed     |   | "BUTTERFLY" [living plants, namely, argerantheums]   | "BUTTERFLY GARDEN" [flower seeds]   | Crowe              | No                           |
| 2-15        | EX              | 75/454,526              | New Century Schools, Inc.                               | Hanak Walters Wendel*    | 2(d)   | Refusal Affirmed     |   | "NEW CENTURY SCHOOLS CONSULTING AND DESIGN" [consulting services for educational institutions in the field of school design and curriculum management] | "NEW CENTURY" [educational printed materials—namely, instruction books, workbooks, teachers' manuals, and response worksheets; CD ROM disks used for educational purposes and manuals sold therewith] | I. Williams        | No                           |
| 2-15        | OPP             | 101,169                 | Shurfine Foods, Inc. v. The Shur-Good Biscuit Co., Inc. | Simms Hairston* Bottorff | 2(d)   | Opposition Sustained | "SHURFINE" (and design) [pretzels, etc.]; "SHURFRESH" (and design) [pretzels, etc.]; <i>and other marks</i> | "SHUR-GOOD BRAND" (and design) [salted and unsalted snack foods, namely, pretzels and corn-based snacks]   |   |                    | No                           |

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| 2-15        | EX<br>EX        | 75/299,005<br>75/384,383 | Novoste Corp.         | Cissel*<br>Walters<br>Holtzman | 2(d)  | Refusal Affirmed (in both applications as to both cited registrations) |  | "BETA-CATH" and "β-CATH" [both marks for radiological apparatus for medical purposes, namely, radiation therapy catheter delivery devices and component parts thereof and accessories therefor] | "BETA" [instruments and apparatus for medical diagnosis, namely, otoscopes, ophthalmoscopes, laryngoscopes, and endoscopes] and "BETA C" [medical dose calibrator for measuring low-level radiation] | J. Dalier          | No                           |
| 2-16        | EX              | 75/465,934               | Michael Haddad        | Simms Walters Drost*           | 2(d)  | Refusal Affirmed   |  | "DINOBRUSH" [toothbrushes]  | "DINOPASTE" and "DINOPASTE" (and design) [both marks for toothpaste and tooth gel]   | Noh                | No                           |
| 2-16        | EX              | 75/547,960               | Cubacaney Enterprises | Seeherman Hohein* Walters      | 2(d)  | Refusal Affirmed   |  | "CUBACANEY" [cigars]  | "CANNEY" [cigars]  | Reihner            | No                           |

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